

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

ST. CLAIR COUNTY EMPLOYEES'	)	
RETIREMENT SYSTEM, Individually and on	)	
Behalf of All Others Similarly Situated,	)	
	)	
Plaintiff,	)	Civil Action No. 3:18-cv-00988
	)	
vs.	)	District Judge William L. Campbell, Jr.
	)	Magistrate Judge Alistair E. Newbern
ACADIA HEALTHCARE COMPANY, INC.,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

**DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR  
LEAVE TO DEPOSE INCARCERATED DEPONENT WILLIAMSON PENN LITTLE**

Defendants Acadia Healthcare Company, Inc. ("Acadia"), Joey Jacobs, Brent Turner, and David Duckworth (collectively, "Defendants"), submit this memorandum of law in support of their motion requesting leave under Rule 30(a)(2)(B) to take the deposition of Williamson Penn Little, who is currently incarcerated in the Clark County Detention Center in Las Vegas, Nevada (the "Detention Center"). For the reasons discussed below, Defendants respectfully request that the Court grant their motion and allow for the deposition of Mr. Little to occur.

**ARGUMENT**

When a party seeks to take the deposition of an incarcerated person, Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure provides that the party "must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2)." Fed. R. Civ. P. 30(a)(2)(B). Interpreting this rule, courts in the Sixth Circuit have noted that leave should be granted "freely, as long as the deposition can be conducted without undue imposition on prison authorities." *El Camino Res., Ltd. v. Huntington Nat. Bank*, No. 1:07-CV-598, 2009 WL 1228680,

at \*1 (W.D. Mich. Apr. 30, 2009); *see also Settle v. Parris*, No. 3:19-CV-32, 2020 WL 3105410, at \*1 (E.D. Tenn. June 11, 2020) (granting motion to take deposition of deponent confined in prison). Accordingly, courts regularly grant leave under Rule 30(a)(2)(B) where the proposed deposition is “likely to yield relevant facts” and “appears to be proportional to the needs of the case.” *Becker v. OSB Inv., LLC*, No. 2:19-MC-00032-MWF, 2019 WL 12381108, at \*2 (C.D. Cal. Apr. 5, 2019) (collecting cases); *see also Waste Mgmt. of Louisiana, LLC v. River Birch, Inc.*, No. CV 11-2405, 2017 WL 1383710, at \*3 (E.D. La. Apr. 18, 2017).

Such circumstances exist here. In this action for alleged violations of the federal securities laws, Plaintiffs allege that the purported “truth” of Defendants’ “fraud” was revealed through a series of public disclosures, including a November 16, 2018 article authored by Mr. Little that was posted on the website Seeking Alpha (the “Seeking Alpha Article”). *See* ECF 39 ¶¶ 190-92. Plaintiffs allege that Mr. Little’s Seeking Alpha Article and the other alleged corrective disclosures establish loss causation, an essential element of Plaintiffs’ claims. *See In re KBC Asset Mgmt. N.V.*, 572 F. App’x 356, 360 (6th Cir. 2014). Moreover, Plaintiffs rely upon numerous assertions in the Seeking Alpha Article as a basis for the allegations in the Amended Complaint. *See, e.g.*, ECF ¶¶ 129, 157. Thus, Mr. Little’s testimony is likely to yield facts directly relevant to the claims and defenses at issue here. *See Becker*, 2019 WL 12381108, at \*2.

Mr. Little, as a short seller of Acadia securities at the time of the Seeking Alpha Article, also possessed a clear motive to exaggerate or fabricate the assertions in the Seeking Alpha Article. Short sellers such as Mr. Little “operate by speculating that the price of a security will decrease . . . [so] they have an obvious motive to exaggerate the infirmities of the securities in which they speculate.” *In re Longtop Financial Technologies Ltd. Sec. Litig.*, 910 F. Supp. 2d 561, 577 (S.D.N.Y. 2012). Mr. Little—who is currently incarcerated at the Detention Center awaiting trial

on over 50 fraud-related charges<sup>1</sup>—stood to profit if Acadia’s stock price declined, thus providing motivation to publish negative accusations about the company.

In short, Mr. Little’s Seeking Alpha Article is indisputably relevant to the claims and defenses at issue in this case, and Defendants should be able to depose him about that article, as well as any motivation he may have had to exaggerate or fabricate the claims made therein. Moreover, consistent with Rule 30, if this motion is granted, Defendants will coordinate with Detention Center personnel to ensure that this deposition does not unduly impose on the prison. Indeed, Defendants have already been in contact with the Detention Center about this deposition and were provided a contact to work through logistics once an order allowing for the deposition to occur has been entered by the Court. Accordingly, Defendants submit that a deposition of Mr. Little is justified pursuant to Rule 30(a)(2)(B).

### **CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court grant Defendants leave to take the deposition of Williamson Penn Little.

Dated: August 17, 2022

Respectfully submitted,

/s/ Steven A. Riley

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<sup>1</sup> See Glenn Puit, *Fraud suspected in Texas man’s \$56K spree at Las Vegas Strip resort* (July 23, 2020, 6:43 AM), <https://www.reviewjournal.com/crime/fraud-suspected-in-texas-mans-56k-sprees-at-las-vegas-strip-resort-2079708/>

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## **CERTIFICATE OF SERVICE**

I hereby certify that on August 17, 2022, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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